UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,828	05/22/2001	Neil W. Taylor	971-128	8874

			EXAMINER
24256	7590	12/21/2004	SON, LINH L D

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ART UNIT	PAPER NUMBER
2135	

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE f this communication appears on the c ver sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _22 May 2001_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disp sition of Claims

4)☒ Claim(s) _1-22_ is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-22_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _05/22/01_.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1.   Claim 2 is objected to because of the following informalities: Claim 2 is written in

a dependent claim, but it fails to point out its dependency. However, Examiner

assumes that it can only be depending to claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) . of such treaty in the English language.

2.   **Claims 1-22 rejected under 35 U.S.C. 102(e) as being anticipated by Tate et**

al, US Patent No. 599774, hereinafter '774.

3.   As per claim 1, "a method for validating executable code resident in an operating

system having executable instructions, comprising the steps of: receiving a score

associated with an executable code when the executable code is initially loaded into an

operating system; saving the score; and receiving a subsequent score on the

executable code and comparing the subsequent score to the saved score to determine

if the executable code has been modified" is taught in '774 (Col 3 lines 10-45, and Col 5 lines 10-43).

4.   As per claim 2, "the method of claim 1, further comprising the steps of : unloading the executable code from the operating system if the saved score is not equal to the subsequent score" is taught in '774 (Col 5 lines 10-43 and Col 8 lines 1-10)

5.   As per claim 3, "the method of claim 1, further comprising the steps of: disabling at least a portion of the executable code if the saved score is not equal to the subsequent score" is taught in '774 (Col 5 lines 35-43).

6.   As per claim 4, "the method of claim 1, wherein the scores are the result of a checksum calculation" is taught in '774 (Col 3 lines 38-45).

7.   As per claim 5, "the method of claim 1, further comprising the steps of: receiving one or more additional scores periodically on the executable code" is taught in '774 (Col 8 lines 1-10).

8.   As per claim 6, "the method of claim 5, further comprising the steps of: disabling at least a portion of the executable code if the saved score is not equal to any of the additional scores" is taught in '774 (Col 5 lines 10-43, and Col 8 lines 1-10)

9.   As per claim 7, "the method of claim 1, further comprising the steps of: notifying electronically an owner of the executable code if the saved score is not equal to the subsequent score" is taught in '774 (Col 5 lines 35-43, and Col 8 lines 1-10).

10.   As per claim 8, "a method for disabling executable code, which has been modified without authorization having executable instructions, comprising the steps of: receiving a score associated with an executable code; receiving one or more subsequent scores associated with the executable code; and disabling the executable code if the score is not equal to any of the subsequent scores" is taught in '774 (Col 3 lines 10-47, Col 5 lines 10-45, and Col 8 lines 1-10).

11.   As per claim 9, "the method of claim 8, further comprising the steps of: notifying an owner of the executable code if disabled" is taught in '774 (Col 5 lines 35-43).

12.   As per claim 10, "the method of claim 8, wherein the scores are the result of a checksum calculation" is taught in '774 (Col 3 lines 37-45).

13.   As per claim 11, "the method of claim 8, wherein the subsequent scores are received Randomly" is taught in '774 (Col 5 lines 10-15).

14.   As per claim 12, "the method of claim 8, wherein the subsequent scores are received at one or more predetermined time intervals" is taught in '774 (Col 8 lines 1-10).

15.   As per claim 13, "the method of claim 8, further comprising the steps of: removing the executable code if disabled from a memory of an operating system wherein the executable code resides" is taught in '774 (Col 5 lines 10-43).

16.   As per claim 14, "the method of claim 8, further comprising the steps of: assisting in the loading of the executable code, if not disabled, to a memory of an operating system wherein the executable code resides" is taught in '774 (Col 3 lines 10-37).

17.   As per claim 15, "the method of claim 8, further comprising the steps of: registering the executable code if not disabled; and recording a history if the executable code is disabled" is taught in '774 (Col 3 lines 25-37, and Col 5 lines 35-43).

18.   As per claim 16, "a method of authenticating executable code resident in a memory having executable instructions, comprising the steps of: acquiring a score associated with an executable code which was established when the executable code was first loaded into a memory of an operating system; receiving a subsequent score on the executable code while the executable code is in the memory; and comparing the subsequent score to the score" is taught in '774 (Col 3 lines 10-45).

19.   As per claim17, "the method of claim 16 further comprising the steps of: disabling

the executable code while the executable code is in the memory when the subsequent

score is not equal to the score" is taught in '774 (Col 5 lines 30-43).

20.   As per claim18, "the method of claim 16, further comprising the steps of:

suspending one or more operations of the executable code while the executable code is

executing in the memory when the subsequent score is not equal to the score" is taught

in '774 (Col 8 lines 1-10).

21.   As per claim 19, "the method of claim 16, wherein the subsequent score is

received each time the executable code is initiated in the memory for an execution" is

taught in '774 (Col 8-27).

22.   As per claim 20, "the method of claim 16, reporting one or more system events

and variables when the subsequent score is not equal to the score" is taught in '774

(Col 5 lines 35-43).

23.   As per claim 21, "functional data used to validate executable code embodied in a

computer readable medium, the data comprising: a first score associated with an

executable code when the executable code is initially loaded into an operating system;

and a second score associated with the executable code at a period of time subsequent

to when the executable code was initially loaded and operable to be compared with the

first score to determine if the executable code has been altered since the initial load" is

taught in '774 (Col 3 lines 10-45, and Col 5 lines 7-43).

24.   As per claim 22, "A system for validating executable code, comprising: a scoring

set of executable instruction operable to receive and record a score associated with an

executable code when the code is initially loaded into a computer readable medium" is

taught in '774 (Col 3 lines 10-45); and "a comparing set of executable instructions

operable to receive a subsequent score associated with the code and to compare the

score and the subsequent score to determine if the code has been altered" is taught in

'774 (Col 5 lines 10-28, and Col 8 lines 1-10).

Conclusion

25.   Any inquiry concerning this communication from the examiner should be directed

to Linh Son whose telephone number is (571)-271-3856.

26.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor Kim Y. Vu can be reached at (571)-272-3859. The fax numbers for this

group are (703)-872-9306 (official fax). Any inquiry of general nature or relating to the
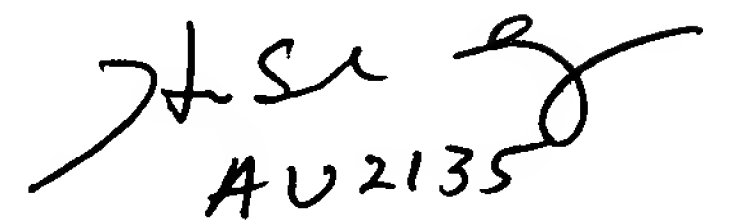
status of this application or proceeding should be directed to the group receptionist

whose telephone number is (571)-272-2100.

27.   Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval IPAIR.I system. Status information for

published applications may be obtained from either Private PMR or Public PMR. Status

information for unpublished applications is available through Private PMR only. For

more information about the PAIR system, see http://pzr-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free).

Linh LD Son

Patent Examiner